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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/081,229	02/25/2002	Hidekazu Sakagami	048369-0132	1662
22428 7590 07/29/2008 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007				
EXAMINER				
RETTA, YIHDEGA				
ART UNIT		PAPER NUMBER		
3622				
MAIL DATE		DELIVERY MODE		
07/29/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/081,229

Applicant(s)

SAKAGAMI ET AL.

Examiner

Yehdega Retta

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This office action is in response to Request for Continued Examination (RCE) filed February 8, 2008. Applicant cancelled claims 1-28 and added new claims 29-51.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 29-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 29 recites, in the preamble, a method claim however the body of the claim recites a system claim. Therefore, it is unclear if the claim is a method or a system claim. Correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 29-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chan et al. (US 2002/0068585) in view of Hendrey et al. (6,647,269).

Regarding claims 29, 36 and 43-51, Chan teaches a mobile marketing server, capable of communication with a plurality of mobile user terminals, generating content for distribution to a processing target user terminal of said plurality of user terminals, based on an action log, which

includes a positional information of the processing target user terminal and time at which said processing target user terminal existed at said position, and a user attribute of a user of said processing target user terminal and distributing said content thus generated to said processing target user terminal (see fig. 4-6 and [0026] – [0034]); mobile marketing server manages an action log, which includes positions of each one of said user terminals and times at which said respective user terminals existed at said positions (see fig. 7-10), and analyzes, when an analysis request is received from an analysis terminal, a behavior of said user terminal based on said managed action log, and sends analysis results to said analysis terminal, wherein said method is further configured in that said analysis request includes a content ID (see [0098] – [0111]). Chan does not explicitly teach whereby said mobile marketing server further manages an distribution log, which includes an identifier of a user that is a distribution destination, said distributed content ID and time of distribution of content, and wherein when there is a notification of an analysis request, which includes said content ID, from said analysis terminal to said mobile marketing server, said mobile marketing server analyzes a change in a user terminal behavior when content having said content ID is distributed, based on said managed action log and distribution log, and sends analysis results to said analysis terminal, it is taught in Hendrey (see col. 4 line 27 to col. 5 line 5, col. 7 line 44 to col. 8 line 47). It would have been obvious to one of ordinary skill in the art at the time of the invention to keep record of the advertisement sent by Chan as in Hendrey for analyzing the effectiveness of the advertisement in order to apply effectiveness-based rate arrangement and also to generate only advertisements to which the user is historically prone to respond, as taught in Hendrey (see col. 8 line 12-47).

Regarding claims 30 and 37, Chan teaches wherein said mobile marketing server selects as said processing target user terminal a user terminal having an action log and a user attribute satisfying anyone of a plurality of pre-established distribution rules (see [0019] - [0025]).

Regarding claim 31, Chan teaches mobile marketing server selects as said processing target user terminal a user terminal that is a source of information request notification (see [0054] – [0082]).

Regarding claims 32 and 33, Chan teaches wherein said user terminal sends its positional information to said mobile marketing server, and said mobile marketing server, based on said positional information sent from said user terminal, manages said action log of said user terminal and said mobile marketing server manages said action log of said user terminal based on said positional information sent from said position detection means (see [0027] -[0039]).

Regarding claims 34 and 41, Chan teaches wherein said user terminal or an identifier sending apparatus which is carried by a user of said user terminal sends an identifier unique to said user terminal or said identifier sending apparatus to an infrastructure-resident position detection means, said infrastructure-resident position detection means receives said identifier of said user terminal or said identifier sending apparatus, calculates a position of said user terminal based on positional information of said infrastructure-resident position detection means and sends positional information of said user terminal to said mobile marketing server, and said mobile marketing server manages an action log of said user terminal based on said positional information of said user terminal received from said infrastructure-resident position detection means (see [0108] – [0120]).

Regarding claim 35, Chan teaches wherein said user attribute includes a user age and gender (see [0054]).

Regarding claim 37, Chan teaches, wherein said mobile marketing server further comprises a distribution rule database, into which are registered a plurality of distribution rules, which include a user terminal action condition, a user attribute condition, and a content ID, wherein said content generating means sets as a processing target user terminal a user terminal having an action log and user attribute that match anyone of distribution rules registered in said distribution rule database among a plurality of user terminals, and generates content to be distributed to said processing target user terminal based on a content ID contained in said distribution rule and matching said action log and attribute of said processing target user terminal (see [0054]-[0085]).

Regarding claim 38, Chan teaches wherein each said user terminal comprises an information requesting means, which gives notification of an information request to said mobile marketing server, wherein said content generation means sets as a processing target user terminal a user terminal that is a source of said information request notification, and generates content for distribution to said processing target user terminal, based on a content ID contained in said distribution log and matching said action log and user attribute of said processing target user terminal (see [0063]-[0093]).

Regarding claim 39, Chan teaches wherein said user terminal comprises a position detection means, which detects a position of said user terminals and a position notification means, which gives notification to said mobile marketing server of a position detected by said position detection means, and wherein said mobile marketing server comprises an action log

database and an action log registering means, which registers into said action log database an action log, which includes a positional information of said user terminal which is notified from said user terminal, an identifier of said user terminal, and the time of said notification (see [0063]-[0093]).

Regarding claim 40, Chan teaches, wherein said mobile marketing system further includes a position detection means, which detects a position information of said user terminal and gives notification to said mobile marketing server of said detected position information, and said mobile marketing server comprises an action log database and an action log registering means, which registers into said action log database an action log, which includes said positional information, of which notification was made from said position detection means, an identifier of said user terminal corresponding to said position detection means which is a source of said notification, and the time of said notification (see [0108] - [0120]).

Response to Arguments

Applicant's arguments with respect to claims 29-51 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

O'Neil, US 2002/010727 teaches targeted advertising for commuters with mobile IP terminals.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yehdega Retta whose telephone number is (571) 272-6723. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

YR

/Yehdega Retta/
Primary Examiner, Art Unit 3622

